



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PITNEY, HARDIN, KIPP & SZUCH
685 THIRD AVENUE
NEW YORK NY 10017

COPY MAILED

DEC 16 2004

In re Application of :
Joseph M. Kelly et al :
Application No. 10/040,142 :
Filed: January 3, 2002 :
Attorney Docket No. 056516.098181 :
: **OFFICE OF PETITIONS**
: **DECISION GRANTING PETITION**
: **UNDER 37 CFR 1.137(b)**

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 2004, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of September 5, 2003, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272,3208.

Application No. 10/040,142

-2-

The application file is being referred to Technology Center Art Unit 1724.

Karen Ceasy

Karen Ceasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy